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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Omar HERNANDEZ,

Defendant(s)

Magistrate Case No. 2008 FEB 21 PM 12:53

'08 MJ 0506

COMPLAINT FOR VIOLATION OF:


Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)
Transportation of Illegal
Aliens

DEPUTY

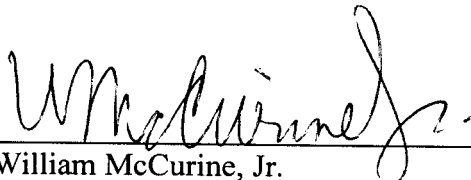
The undersigned complainant, being duly sworn, states:

On or about **February 19, 2008** within the Southern District of California, defendant **Omar HERNANDEZ** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Ernesto MARTINEZ-Rodriguez, and Miguel SANCHEZ-Martinez**, had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **21st** DAY OF **FEBRUARY 2008**


 William McCurine, Jr.
 UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Ernesto MARTINEZ-Rodriguez, and Miguel SANCHEZ-Martinez**, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On February 19, 2008, Senior Patrol Agents M. Tinoco and S. Collins, and Border Patrol Agents D. Cordero, D. Helmick, and J. Hoeckle were performing assigned inspection duties at the Border Patrol Checkpoint in Pine Valley, California. The Border Patrol Checkpoint is located in the westbound lanes of Interstate 8, approximately one mile east of the Sunrise Highway Exit in Pine Valley. Pine Valley is approximately 12 miles north of the United States/Mexico International Boundary and 8 miles east of the Tecate, California Port of Entry. Each Agent was wearing a complete Border Patrol uniform, and positioned under high intensity flood lights, in plain view of passing motorists in the primary inspection area of the Checkpoint.

At approximately 9:07 p.m., a subject, later identified as the defendant, **Omar HERNANDEZ**, approached the primary inspection area in a silver 2008 Chevrolet Tahoe, bearing California license plates. Agent Helmick questioned the defendant as to his citizenship, to which the defendant stated that he was a United States Citizen. Agent Helmick questioned the defendant if there were any other occupants in the Tahoe. He replied that there was no one else in the vehicle. Agent Helmick looked in through the Tahoe's back window and observed a leg in the back seat. Agent Helmick asked the defendant again if there was anyone in the back of the Tahoe. He again said there was no one else in the vehicle. Agent Helmick directed the defendant to the secondary inspection area.

The defendant was driving very slowly and appeared to be complying with the command to pull into the secondary inspection area. As Agent Cordero approached the Tahoe, he observed one person lying on the floorboard in the rear cargo area. The defendant then suddenly accelerated through the secondary inspection area, fleeing from the checkpoint. Agent Cordero signaled Agent Hoeckle to deploy a Controlled Tire Deflation Device (CTDD) across the road in front of the Tahoe. The defendant swerved violently around the CTDD and was able to avoid contact. The defendant continued traveling westbound on Interstate 8 at a high rate of speed away from the checkpoint.

Agents Tinoco and Cordero attempted to follow the defendant, in a marked service vehicle. The defendant was driving the Tahoe at such a high rate of speed that the Agents were unable to make visual contact with the vehicle. At approximately 9:20 p.m., as Agent Tinoco was driving east on Old Highway 80 through Pine Valley, he observed the Tahoe traveling westbound past his location. The Tahoe rapidly accelerated and was again able to disappear from Agent Tinoco's field of view. Agent Tinoco continued traveling west on Old Highway 80 and noticed that the silver Tahoe had driven off the road at the intersection of Old Highway 80 and Highway 79 in Descanso, California. Agent Tinoco contacted Agent Collins to assist in tracking the occupants of the Tahoe that had fled from the scene.

Agent Collins arrived on scene shortly and began tracking the vehicle's occupants with the help of his K-9 (#120628). The K-9 immediately picked up the occupant's scent and led Agent Collins to a wooded area, approximately 200 yards from the Tahoe. At approximately 10:00 p.m., Agent Collins found three subjects hiding in a tree. Based on his training and experience as a Border Patrol Agent and K-9 handler, Agent Collins was able to determine that these three subjects had escaped to the tree from the silver Tahoe. Agent Collins identified himself as a United States Border Patrol Agent and performed an immigration check on each of the three subjects. The defendant again stated that he was a United States citizen. The other two subjects, later identified as material witness Ernesto MARTINEZ-Rodriguez and Miguel SANCHEZ-

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Martinez, freely admitted to being Mexican citizens and not having any immigration documents that would allow them to legally enter or remain in the United States. Agent Collins placed the defendant under arrest for suspicion of alien smuggling. Agent Collins placed MARTINEZ and SANCHEZ under arrest for illegal entry into the United States. During an inventory search of the Tahoe, Agent Collins located a black leather wallet in the center console containing a California Driver's License belonging to the defendant. All subjects and the silver Tahoe were transported to the El Cajon Border Patrol Station for processing.

DEFENDANT STATEMENT:

At approximately 1:35 a.m. the defendant, **Omar HERNANDEZ**, was advised of his Miranda Warnings and was willing to make a statement without an attorney present. The defendant stated he is a United States Citizen.

The defendant was asked to recount the events that led to his arrest today and freely admitted to being at the local Campo casinos just gambling and eating when he decided to travel from the Golden Acorn Casino to the La Posta Casino a few miles away. As he proceeded to exit the casino's parking lot, he claimed he was approached by two unidentified males complaining to him about being hungry and cold. According to him, the two males asked him if he could give them a ride to Los Angeles, California. He agreed and began driving west on Interstate 8 with the two unidentified males in the vehicle. Both of his passengers confirmed his suspicion and stated they had no documents that allowed them to be present in the country legally. The defendant admitted that he had knowledge of both of the passengers being illegal aliens well before arriving at the checkpoint, but felt he had no choice and continued westbound.

At primary inspection, the defendant claimed he was extremely nervous about getting caught and began to panic when instructed to pull up to secondary inspection. His reason for fleeing from secondary inspection was that it was an involuntary reaction he made while under pressure. The defendant stated he drove west until he drove off the road and the vehicle became immobile.